



Patrick W. Henning, Director
January 12, 2009
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Arnold Schwarzenegger
Governor

Mr. Mark Cafferty, President/CEO
San Diego Workforce Partnership, Inc.
3910 University Avenue, Suite 400
San Diego, CA 92105

Dear Mr. Cafferty:

WORKFORCE INVESTMENT ACT
FISCAL AND PROCUREMENT REVIEW
FINAL MONITORING REPORT
PROGRAM YEAR 2007-08

This is to inform you of the results of our review for Program Year (PY) 2007-08 of the San Diego Workforce Partnership, Inc. (SDWP) Workforce Investment Act (WIA) grant financial management and procurement systems. This review was conducted by Mr. Gerald Lee from May 19, 2008 through May 23, 2008. For the fiscal portion of the review, we focused on the following areas: fiscal policies and procedures, accounting system, reporting, program income, expenditures, internal control, allowable costs, cash management, cost allocation, indirect costs, fiscal monitoring of subrecipients, single audit and audit resolution policies and procedures for its subrecipients and written internal management procedures. For the procurement portion of the review, we examined procurement policies and procedures, methods of procurement, procurement competition and selection of service providers, cost and price analyses, and contract terms and agreements and property management.

Our review was conducted under the authority of Section 667.410(b)(1), (2) & (3) of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by SDWP with applicable federal and state laws, regulations, policies, and directives related to the WIA grant regarding financial management and procurement for PY 2007-08.

We collected the information for this report through interviews with representatives of SDWP, a review of applicable policies and procedures, and a review of documentation retained by SDWP for a sample of expenditures and procurements for PY 2007-08.

We received your response to our draft report on September 24, 2008, and reviewed your comments and documentation before finalizing this report. Because your response adequately addressed finding 3 cited in the draft report, no further action is required and we consider the issue resolved.

Additionally, because your response did not adequately address findings 1, 2, 4 and 5 cited in the draft report, we consider these findings unresolved. We requested that SDWP provide the Compliance Review Division (CRD) with a corrective action plan (CAP) to resolve the issues that led to the findings. Therefore, these findings remain open and have been assigned CATS numbers 80169, 80170, 80172 and 80173.

BACKGROUND

The SDWP was awarded WIA funds to administer a comprehensive workforce investment system by way of streamlining services through the One-Stop delivery system. For PY 2007-08, SDWP was allocated: \$5,195,025 to serve 938 adult participants; \$5,750,952 to serve 822 youth participants; and \$4,834,095 to serve 942 dislocated worker participants.

For the quarter ending March 31, 2008, SDWP reported the following expenditures and enrollments for its WIA programs: \$2,649,746 to serve 829 adult participants; \$1,960,491 to serve 721 youth participants; and \$2,833,563 to serve 845 dislocated worker participants.

FISCAL REVIEW RESULTS

While we concluded that, overall, SDWP is meeting applicable WIA requirements concerning financial management, we noted instances of noncompliance in the following areas: Cost allocation, audit resolution, debt collection, and interest income. The findings that we identified in these areas, our recommendations, and SDWP proposed resolution of the findings are specified below.

FINDING 1

Requirement:

OMB Circular A-122, Attachment A, Section (4)(a) states, in part, that a cost is allocable to a particular cost objective such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received.

The Department of Labor Financial Management Technical Assistance Guide, Part II, Chapter 8, states, in part, that allocation bases should measure actual cost or effort expended. Methodologies which are based on relative funds available or on predetermined data are unacceptable.

Observation: We observed two instances in which costs were allocated among benefiting programs based on a predetermined estimate. Specifically, the allocation of \$1,142.91 for a travel reimbursement for a SDWP employee and the allocation of \$3,895.30 for a customer service expense were distributed 50-percent Adult, and 50-percent Dislocated Worker. We asked SDWP how the percentage was derived and SDWP was unable to provide a definable basis for the expense, therefore the allocation for this expense is not based on actual benefit received.

Recommendation: We recommended that SDWP provide CRD with a CAP stating how it will ensure, in the future, that costs allocated to multiple cost objectives are based on relative benefits received.

San Diego Response: The SDWP stated that the Workforce Partnership's Finance Director will review the cost allocation plan with finance staff to ensure that staff has the appropriate level of understanding of how the cost allocation plan works and how it is to be applied to expenditures to ensure programs are charged for actual benefits received.

State Conclusion: Based on SDWP's response, we cannot resolve this issue at this time. Although SDWP's CAP identifies how it will ensure in the future that cost objectives are based on relative benefits received. SDWP did not identify how the percentage for allocation was derived and SWDP was unable to provide a definable basis for the expenses named above. Therefore the allocation for these expenses is not based on actual benefit received.

Until then, this issue remains open and has been assigned CATS number 80169.

FINDING 2

Requirement: 20 CFR Section 667.500(a) states, in part, that a State must utilize the audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs. If a State does not have such procedures, it must prescribe standards and procedures to be used for this grant program.

WIA Directive WIAD01-05 states, in part, that funds collected by LWIAs in the settlement of debts must be returned to CRD immediately on their receipt.

Observation: During our monitoring review, we reviewed SDWP's debt collection and found that it lacked instructions that funds collected through the debt collection process by SDWP must be returned to CRD.

Recommendation: We recommended that SDWP update their debt collection procedures to include the above specified missing item and provide the CRD with a copy.

San Diego Response: The SDWP stated that the reason their debt collection policy does not indicate that funds collected through the debt collection process must go to EDD/CRD is because it is an internal process and not passed on to their service providers. Therefore, SDWP states it does not believe it is necessary to include it in the debt collection process of their Operations Manual. The SDWP also states, according to the EDD Directive WIAD06-3, WIA Closeout Handbook, Attachment WIA Handbook states that there may be situations when the debt collected does not need to be returned to EDD/CRD.

State Conclusion: Based on SDWP's response, we cannot resolve this issue at this time. While SDWP alluded to an instance in the WIA Closeout Handbook where audits disallowances do not need to be returned to CRD, WIAD01-05 states that funds collected by LWIAs in settlement of debt resolution from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts must be returned to CRD immediately on their receipt. Therefore, we continue to recommend that SDWP update their debt collection procedures regardless of whether the procedure is an internal process to include the above specified missing information and provide CRD with a copy. Until then, this issue remains open and has been assigned CATS number 80170.

FINDING 3

Requirement: WIA 195(7)(C) states, in part, that each entity receiving financial assistance under WIA shall maintain records sufficient to determine the amount of income received.

Title 20 CFR Section 667.200(a)(7) states, in part, that interest income earned on funds received under WIA Title I must be included in program income.

Observation: All grant funds received by SDWP are held in an interest bearing bank account until disbursed. However, the bank does not separate the interest earned or fees for providing banking

services on the bank statement. The SDWP states that the interest earned and the banking fees cancel out each other.

Recommendation: We recommend that SDWP provide CRD with documentation that substantiates that banking fees cancel out the interest earned from its bank account or documentation that shows SDWP is reporting interest income.

San Diego Response: The SDWP states that the bank statements provided to the EDD monitor only shows the net banking fees. The detail of what SDWP's account earns in earning credits (soft dollars) and the total of the fees charged to its account are shown on a separate report called Account Analysis Statement. When SDWP's account earns less than the fees incurred, an Analysis Deficit charge will show on the following month's bank statements. The SDWP provided a copy of a July 2008 bank statement that shows an analysis deficit charge of \$364.53 for the month of June 2008. In addition, SDWP provided a copy of its June 2008 Account Analysis Statement that shows \$546.52 in earnings credits and \$911.05 in bank charges. The net result is \$364.53 in net earnings deficit.

State Conclusion: We consider this finding resolved.

PROCUREMENT REVIEW RESULTS

While we concluded that, overall, SDWP is meeting applicable WIA requirements concerning procurement, we noted instances of noncompliance in the following areas: Cost price analysis and contract provisions. The findings that we identified in these areas, our recommendations, and SDWP's proposed resolution of the findings are specified below.

FINDING 4

Requirement: 29 CFR Section 95.45 states, in part, that a cost or price analysis shall be made and documented in the procurement files with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted and market prices.

WIA Directive WIAD00-2 states, in part, that small purchases must be documented with a sales receipt, current catalogs with price lists, or formal quotes depending on the amount of the purchase.

Observation: We found that SDWP's policies and procedures state that one quote is sufficient documentation for purchases between \$0-\$999.

Recommendation: We recommended that SDWP revise its small purchase policy to require more than one quote for purchases between \$0-\$999. Additionally, we recommended that SDWP provide CRD with a corrective action plan, stating how it will ensure, in the future, that SDWP obtains more than one quote and conducts a price analysis for purchases between \$0-\$999.

San Diego Response: The SDWP states that it is not clear from the information provided in the EDD Monitoring Report that the requirements and citations were meant to include very small purchases in the \$0 - \$999 category. The SDWP has been monitored by EDD over the past sixteen years and this area has not been found deficient in any previous EDD or Department of Labor monitoring review. Requiring SDWP to implement this recommendation will create a significant burden on both programmatic and administrative staff making the purchasing policy very inefficient. The SDWP request CRD to remove this finding due to the ambiguity of very small purchases as indicated in the Circulars and the law and as well as the significant burdens and inefficiencies the correction would create.

State Conclusion: Based on SDWP's response, we cannot resolve this issue at this time. The SDWP did not provide any documentation to support the significant burden to solicit one additional quote for purchases that may cost nearly \$1,000. Furthermore, no specific citations were provided to illustrate what SDWP means by the ambiguity of very small purchases indicated in the Circulars and the law. OMB Circulars clearly state that a cost or price analysis shall be conducted and documented for every procurement transaction. CFR 29 Part 97.36 (d) (1) states, if small purchases procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources. Therefore we continue to recommend that SDWP revise its small purchase policy to require more than one quote for purchases between \$0-\$999. Additionally, we recommend that SDWP provide CRD with a corrective action plan, stating how it will ensure, in the future, that SDWP obtains more than one quote and/or conduct a price analysis for purchases between \$0-\$999. Until then, this issue remains open and has been assigned CATS number 80172.

FINDING 5

Requirement:

20 CFR Section 667.200(d) states, in part, that all WIA Title-I grant recipients and subrecipients must comply with the government-wide requirements for debarment and suspensions.

29 CFR Section 95.48(a) states, in part, that contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms.

29 CFR Section 95.48 Appendix A-1 states, in part, that all contracts shall contain a provision requiring compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967. "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

29 CFR Section 95.48 Appendix A-7 states, in part, that rights to inventions made under a contract or agreement-contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the federal government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to inventions made by nonprofit organizations and small business firms under government grants, contracts, and cooperative agreements," and any implementing regulations issued by the awarding agency.

29 CFR Section 95.13 states, in part, that recipients shall comply with the nonprocurement debarment and suspension common rule implementing Executive Order 12549 and 12689, "Debarment and Suspension" codified by DOL at 29 CFR part 98.

Observation:

We reviewed SDWP's contract boilerplate and found that the contract lacked the following provisions:

- Administrative, contractual, or legal remedies in instances of contractual violation
- Compliance with EEO provisions in EO 11246, as amended by EO 11375 and supplemented by the requirements of 41 CFR Part 60

- DOL requirement pertaining to patent rights, copyrights, and rights in data. (The SDWP version states that the patent rights belongs to SDWP)
- Requiring compliance with the debarment and suspension requirement EO 12689

Recommendation: We recommended that SDWP submit a CAP to CRD stating how it will include the provisions required above in future contracts.

San Diego Response: The SDWP states that appropriate revisions will be completed to the General Provisions of its contract boilerplate in relation to the EEO, patent rights, copyrights and rights in data and the debarment and suspension provisions. However, SDWP states that Section 23. related to suspension of funding, Section 47. termination for default, Section 48. termination on occurrence of stated events, Section 49. termination due to unavailability of funds, and Section 50. termination for convenience of its General Provisions meet the requirement of setting administrative, contractual and legal remedies. SDWP states at this time, there will be no changes to address this finding as SDWP considers that its policies are in compliance.

State Conclusion: The SDWP's stated corrective action should be sufficient to resolve bullets numbered 2- 4 described above pending onsite verification of its corrective action during a future onsite review. Because the provisions stated in bullet one is not in its contract boilerplate, this remains a non-compliance item. The CFR Section 95.48 requires the specific provisions to be stated in the contract. It is not sufficient to have the provisions stated in its Operational Manual where the contractor is not aware of consequences for contract breach. Until then, this finding will remain open and has been assigned CATS number 80173.

We provide you up to 20 working days after receipt of this report to submit to the Compliance Review Division your response to this report. Because we faxed a copy of this report to your office on the date indicated above, we request your response no later than February 10, 2009. Please submit your response to the following address:

Compliance Monitoring Section
Compliance Review Division
722 Capitol Mall, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

Mr. Mark Cafferty

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January 12, 2009

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all of the areas included in our review. It is SDWP's responsibility to ensure that its systems, programs, and related activities comply with the WIA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain SDWP's responsibility.

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact me at (916) 653-7541 or Ms. Carol Hammond at (916) 653-6633.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessie Mar".

JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Division

cc: Jose Luis Marquez, MIC 50
Daniel Patterson, MIC 45
Georganne Pintar, MIC 50
Gilbert Von Studnitz, MIC 50